



# Department of Justice

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**UNITED STATES DISMISSES CHARGES AGAINST 11 OF 12 DEFENDANTS  
IN DRUG TRAFFICKING CONSPIRACY CASE**

LOUISVILLE, KY - David L. Huber, United States Attorney for the Western District of Kentucky, today stated that the United States has filed a motion to dismiss charges against all but one of the twelve defendants charged in a large scale drug trafficking conspiracy and to limit the charges being pursued against the remaining and principal defendant, Reginald "Reggie" Rice.

According to court documents, in August 2004, Rice and two illegal immigrants were arrested as Rice was attempting to take delivery of a shipment of cocaine. One of the vehicles involved in the aborted transaction contained approximately 20 kilograms. Search warrants for Rice's residences served immediately after the arrest resulted in the seizure of additional cocaine, firearms, and more than \$200,000 in cash. The information leading to the arrest was obtained via a court ordered wiretap of Rice's phone. Approximately nine other persons in addition to Rice and the two illegals were indicted based upon information from the wiretap. The defendants who were dismissed were Jose Alfredo Jimenez-Huerta, German Jose Jimenez-Huerta, Marshall Thomas Evans, Jr., Derrick Smith, Demetrius Crenshaw, James Crenshaw, Terry Middleton, Yolanda Raymel Walker, Damon Shepherd, Montez Moore, and Terrell Gray.

On October 13, 2007, the U.S. District Court suppressed the wiretap evidence ruling that a statement in an affidavit concerning surveillance of Rice prior to issuance of the wiretap was potentially misleading and negated the necessity for the wiretap. The district court found that the

wiretap order was based on an affidavit that failed to sufficiently show that other investigative techniques would be unlikely to succeed or would be too dangerous, the "necessity requirement".

A DEA task force began an investigation into Reginald Rice's and another person's drug business in October of 2003. A member of the task force sought a District Judge's approval to tap the third party's cell phone on May 26, 2004. During the course of the authorized wiretap of this phone, the task force intercepted several calls in which "Reggie" Rice discussed drug trafficking operations.

Accordingly, on June 23, 2004, agents sought an order authorizing the interception of wire communications from a cell phone belonging to Rice. The June 23, 2004, Affidavit advised that Rice regularly used the targeted phone to discuss drug trafficking with a third party who used his monitored cell phone in those discussions. The agent stated that "Normal investigative procedures have been tried and failed or reasonably appear unlikely to succeed if tried or are too dangerous to employ." The agent also repeated the information about Rice as having "a well-known reputation as being a violent, large-scale cocaine distributor who has successfully intimidated individuals through violence and/or the threat of violence." The affidavit also described why other investigative techniques were unlikely to be effective.

The affidavit further stated that "[p]hysical surveillance of the subjects of this investigation has been conducted and is presently being conducted with only limited success." The affidavit noted the reasons physical surveillance had limited success and the risks involved in conducting long-term physical surveillance. Those risks included the dangers Rice and his cohorts presented because of the violence they had used in the past. In addition, it was stated that drug trafficking organizations like Rice and his cohorts employed counter-surveillance measures to detect law enforcement presence.

The District Court ruling determined that the June 23, 2004, Affidavit indicated neither

"serious consideration" of other investigative techniques nor the reasons for the agent's belief in the inadequacy of the other measures as used against defendant Rice. Rather, the Court found that the task force was using the wiretap as "the initial step in its investigation" of Rice.

The U.S.'s appeal of that suppression decision was denied on March 2, 2007, by a three-judge panel of the Sixth Circuit Court of Appeals. One dissenting judge said the worst that can be said about the affidavit is that his statements on surveillance were "ambiguous, or that they were negligently made." "Neither is sufficient to warrant suppressing the wiretap evidence," he said. The dissenting judge further said that "there is nothing in the record to indicate that the issuing judge was misled about the nature of the surveillance on Rice."

U.S. Attorney Huber said the dismissal was a result of the suppression of evidence obtained against these individuals through the use of the court approved wiretap.

Huber also said:

It is always disappointing when we must dismiss a prosecution because evidence supporting the criminal charges is ruled inadmissible. As with any criminal prosecution, we seek to avoid errors of any kind, but in this case the Court perceived an error which led it to disallow the use of the wiretap evidence. The United States vigorously disputed that there was error, and one of the three appellate judges agreed. Nevertheless, the Courts of this nation are the final arbiters of such issues and we accept and respect the ruling that has been made.

While the dismissal of the charges against the two illegal immigrants arrested during the attempted cocaine delivery will result in their release from custody on those charges, upon release they will be transferred to the custody of immigration authorities who have placed a hold on them for probable deportation due to their illegal status.

The United States is not asking that the Indictment against Rice be dismissed. While the

drug trafficking charges in the Indictment cannot go forward without the wiretap evidence, the United States is intending to pursue illegal firearms possession charges in the Indictment for which non-wiretap evidence can be used. Rice, who was convicted of felony drug possession in Jefferson Circuit Court in 1996 cannot lawfully possess a firearm.

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